



SENATE BILL 537: Increase In Rem Foreclosure Fee

2011-2012 General Assembly

Committee: Senate Finance
Introduced by: Sen. Hartsell
Analysis of: First Edition

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SUMMARY: *Senate Bill 537¹ would increase the administrative cost a taxing unit may impose for the in rem procedure of tax foreclosure from \$50 to \$250.*

CURRENT LAW: There are two different tax foreclosure procedures a taxing unit may pursue to enforce a lien on real property for delinquent taxes²: the mortgage style procedure³ which involves a standard civil action filed in State court and the in rem procedure⁴ which is an expedited procedure that permits a taxing unit to docket a judgment against the property in state court and proceed with a foreclosure sale within three months to two years after the judgment is docketed. In a mortgage style procedure, the costs of the action may be added to the amount of the taxes due; these costs may include a reasonable attorney's fee. In an in rem procedure, the costs of mailing and publication plus a \$50 charge to defray administrative expenses may be added to the amount of taxes due; if an attorney is used, the attorney fee is paid by the taxing unit and may not be added to the judgment as part of the costs of the action.⁵

BILL ANALYSIS: Senate Bill 537 would increase the amount of the charge for administrative costs that may be added to the tax due as part of the costs of the action in an in rem foreclosure proceeding for delinquent tax due. The current administrative cost of \$50 has not been increased since it was first allowed in 1987. Senate Bill 537 would increase the amount of the charge to \$250. Much of the administrative time required for an in rem foreclosure is spent researching the property's chain of title.

EFFECTIVE DATE: The bill would become effective July 1, 2011, and apply to in rem foreclosure proceedings commenced on or after that date.

S537-SMRB-50(e1) v1

¹ Senate Bill 537 is identical to House Bill 449, introduced by Rep. Setzer. House Bill 449 is currently in House Finance.

² Taxes become delinquent when interest begins to accrue on January 6 of the year in which the taxes were levied.

³ G.S. 105-374.

⁴ G.S. 105-375.

⁵ G.S. 105-375(j).